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July 24, 2020

**VIA ECF**

The Honorable Katherine Polk Failla  
United States District Judge  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, New York 10007

**Re: *Lovati et al v. Petroleos de Venezuela, S.A.*, 20-Civ-00269;  
*Petroleos de Venezuela, S.A. v. MUFG Union Bank, N.A.*,  
19-Civ-10023 (related)**

Your Honor:

We represent the Lovati plaintiffs in *Lovati et al v. Petroleos de Venezuela, S.A.*, 20 Civ. 00269. We have been participants in this matter by order of this Court. As such, we have received the July 20, 2020 letter written to you by James R. Bliss, in which Mr. Bliss conveys the Statement of Interest of the United States in the *Crystallex* case. According to Mr. Bliss, the Statement of Interest and the accompanying letters of two U.S. officials support the “act of state” doctrine argued by plaintiffs. We disagree. Although the statement and the letters say many things, they do not speak to the application of the “act of state” doctrine in the instant case.

If, as defendants’ expert posits, the final authority on constitutional interpretation in Venezuela is the rulings of the Constitutional Chambers, the actions of the National Assembly make no difference. Statements by the National Assembly -- however they are characterized and whether or not the Assembly has been recognized by the United States Government -- do not constitute an act of state trumping constitutional interpretation.

While we find the arguments advanced by defendants’ expert persuasive, we could not help but notice that one of the arguments advanced by plaintiffs’ expert is dependent upon the fact that the contract in question was with “companies not domiciled in Venezuela.” This statement is technically correct, but overlooks the fact that the contract is for the benefit of the bondholders, many of whom are individuals -- as are our clients. Since the bondholders are the real parties in

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interest, that fact should be taken into consideration in the event that the Court finds it necessary to consider this argument.

Very truly yours,

/s/ Anthony J. Costantini  
Anthony J. Costantini

AJC/gg

cc: Counsel of record  
(VIA ECF)

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bcc: Rudolph J. Di Massa, Jr., Esq.  
Nathan Abramowitz, Esq.  
David T. McTaggart, Esq.